

Message Text

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PAGE 01 GENEVA 10272 071115Z

ACTION EB-08

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TAGS: GATT, ETRD

SUBJECT: GATT STUDY OF ARTICLE XIX

1. GATT SECRETARIAT HAS DISTRIBUTED ITS STUDY OF
"MODALITIES OF APPLICATION OF ARTICLE XIX (GATT DOC
L/4679 5 JULY). ORIGIN OF STUDY WAS COMPLAINTS BY LDCS
AGAINST DISCRIMINATORY APPLICATION OF ARTICLE XIX (UK
RESTRAINTS ON KOREAN TVS AND NORWEGIAN RESTRAINTS ON
HONG KONG TEXTILES). GATT COUNCIL FINALLY AGREED AT
JUNE 6 MEETING TO ALLOW SECRETARIAT TO UNDERTAKE STUDY
WHICH WOULD
(A) DESCRIBE THE VARIOUS DISCUSSIONS IN GATT AND THE
DIFFERENT OPINIONS EXPRESSED CONCERNING THE PROVISIONS OF
THE ARTICLE
(B) DESCRIBE NOT ONLY THE FORMAL MODALITIES OF THE
ACTION TAKEN, BUT LIKEWISE THE MODALITIES FOR ITS
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UNCLASSIFIED

PAGE 02 GENEVA 10272 071115Z

PRACTICAL APPLICATION (SUCH AS REFERENCE PERIODS, AP-
PORTIONMENT OF SHARES, ETC.)

2. SECRETARIAT 53 PAGE DOCUMENT TRACES HISTORY OF
ARTICLE XIX, INCLUDING ITS ORIGINS IN US/MEXICO BILATERAL
AND HAVANA CHARTER, MAJOR DISCUSSIONS ON ARTICLE AT
SECOND SESSION OF CPS, JAPANESE ACCESSION PROTOCOL, RE-

LATIONSHIP OF ARTICLE XIX ACTION TO REGIONAL INTEGRATION AGREEMENTS (ARTICLE XXIV:8) AND RELATIONSHIP TO PART IV OF 6A. SECRETARIAT STUDY MAKES IT CLEAR FROM DRAFTERS' INTENTIONS AND SUBSEQUENT INTERPRETATION THAT ARTICLE XIX IS MEANT TO BE APPLIED IN A NON DISCRIMINATORY MANNER.

3. SECRETARIAT ANALYSIS OF NINETY-FIVE ARTICLE XIX NOTIFICATIONS MAKES THE FOLLOWING POINTS:
(A) IN FIRST 10 YEAR PERIOD (UP TO 1958) ACTIONS IN THE FORM OF INCREASED TARIFFS WERE THE NORM. FOR THE NEXT 10 YEARS, QUANTITATIVE RESTRICTIONS BECAME COMMON ALTHOUGH TARIFF RATE INCREASES STILL PREDOMINATED. SINCE 1969 THE USE OF QUANTITATIVE RSTRICIONS HAS BECOME MORE PRO-
NOUNCED.

(B) THOSE MEASURES WHICH IN PRACTICE MAY LEND THEMSELVES MORE EASILY TO DISCRIMINATORY USE, SUCH AS INDIVIDUAL OR DISCRETIONARY LICENSING ARRANGEMENTS, COUNTRY ALLOCATED QUOTAS AND QUOTAS ALLOCATED TO IMPORTERS WERE INVOKED ONLY FOUR TIMES IN THE FIRST TWENTY YEAR PERIOD COMPARED TO TWENTY TIMES SINCE 1969.

(C) THE CASE WHICH PROVOKED THE STUDY, UK MEASURES AGAINST TV IMPORTS FROM KOREA, IS THE ONLY CASE IN THE HISTORY OF THE GATT IN WHICH ARTICLE XIX ACTION HAS UNILATERALLY BEEN TAKEN ON A DISCRIMINATORY BASIS WITH REGARD TO A UNCLASSIFIED

UNCLASSIFIED

PAGE 03 GENEVA 10272 071115Z

SINGLE SOURCE OF SUPPLY IN A FULLY TRANSPARENT MANNER.

(D) TWENTY-FIVE ART XIX ACTIONS ARE STILL IN FORCE. OF THE TOTAL 95, 29 WERE OR HAVE BEEN IN FORCE FOR LESS THAN ONE YEAR, 25 FOR ONE TO THREE YEARS AND 26 FOR MORE THAN 5 YEARS.

4. ANNEXES TO STUDY CONTAIN DETAILED LISTING OF ALL ARTICLE XIX ACTIONS, RATIONALE FOR DEALING WITH MARKET DISRUPTION THROUGH APPLICATION OF ARTICLE XIX (EXECUTIVE SECRETARIAT NOTE IN RELATION TO LTA IN COTTON TEXTILES DURING PREPARATION FOR KR) AND SECRETARIAT NOTE CONTAINING WYNDAM WHITE'S SUGGESTION ON SELECTIVE APPLICATION.
VANDEN HEUVEL

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